

REMARKS

Claims 25-40 stand rejected. Claims 27 and 28 are amended. Claims 25-40 remain pending.

Claims 27 and 28 are amended solely to address the Examiner's 112 rejections. No new matter is added, and the full range of equivalents is retained.

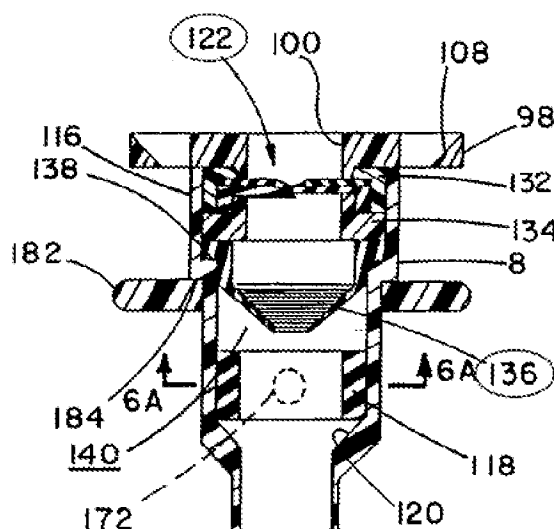
102 Rejection:

The Office Action rejected claims 25-40 under 35 U.S.C. 102(b) as being anticipated by Haber (US Patent No. 5,385,552). It is respectfully urged that this rejection is improper because Haber does not teach each and every claim element of each rejected claim, as required by the MPEP.

With respect to Claim 25, it is respectfully urged that Haber does not teach or suggest at least the following:

a seal assembly having a plurality of separate semicircular seal segments arranged in a conical shape, each seal segment having a circumference greater than 180 degrees and being adapted to seal against objects positioned through the seal.

A portion of Figure 4 of Haber is reproduced below.



The Examiner states with regard to Claim 25,

“ ...Haber discloses a seal assembly (122, 124, and 136) having a plurality of separate semicircular seal segments arranged in a conical shape, each seal segment having a circumference greater than 180 degrees and being adapted to seal against objects positioned through the seal.”

This is not a correct characterization of Haber. In fact, Haber's own Abstract teaches the following:

“...at least three interleaved elastomeric sealing elements (124) which seal the path when an object, such as an obturator barrel (14), *is not positioned along the path*. The gas sealing assembly also includes a flexible, elastic, conical element (136) with a hole (158) at its tip and raised edges or rings (164) along its inner surface (154) for sealing the path *when an object is positioned along the path*.” (Italics added)

Accordingly, Haber fails to teach at least the following elements/limitations recited in Claim 25.

1. Haber does not teach or suggest a plurality of semicircular seal segments arranged in a conical shape. Haber discloses a single conical element (136), not a plurality of seal segments arranged in a conical shape.
2. Haber does not teach a plurality of separate seal segments for sealing a path when an object is positioned along a path. Instead, Haber's own Abstract explains that the sealing elements (124) seal a path when an object is not positioned along a path, and that the conical element (136) is used for sealing the path when an object is positioned along the path.

It is respectfully urged that the Examiner's position is not only mischaracterizes Haber, but that Haber actually is contrary to, and teaches away from the subject matter of Claim 25, as explained in the previous Response.

In the Examiner's "Response to Arguments", the Examiner states that Applicant has argued that proximal seal 122 would be referred to in the art as a zero-closure seal, but that Applicant's own specification suggests otherwise, the Examiner referring to Figure 7, paragraph 022. It is respectfully urged that neither Figure 7 or paragraph 022 of the Applicant's disclosure "suggests otherwise" as the Examiner maintains.

Figure 7 depicts a cross-sectional view of a trocar, showing among other things seal protectors 40, seal segments 4A-D, and a zero closure valve shown in Fig 7 as a duck bill valve 230. (See e.g. Last sentence of Paragraph 0018 of Applicant's disclosure referring to zero closure valve shown in Figure 7 as a duck bill valve 230).

Paragraph 022 of the Applicant's disclosure discloses for instance, how seal protectors 40 are attached to the seal assembly 2. Paragraph 022 does not appear to support or even be relevant to the Examiner's comment that Applicant's own disclosure somehow "suggests otherwise" with respect to zero-closure seals.

The Examiner is respectfully requested to clarify how Figure 7 and paragraph 022 of the Applicant's disclosure supports the point the Examiner is trying to make, especially since paragraph 022 seems to be directed to a structure different from seal segments 4A-4D .

The Examiner's "Response to Arguments" also states that Haber does not teach away by disclosing conical shaped "seal" segments (124 and 136), and that :

The 'seals' (124) form a cone shape when stacked and 'seal' (136) is cone shaped to anticipate the claim 25 as presently claimed. Furthermore, the seals have a non-planar shape since they have flanges (figure 2).

The above statement that the seals (124) form a cone shape when stacked is not supported in the drawings or specification of Haber anywhere the undersigned can see, and certainly not anywhere identified by the Examiner.

The Examiner is respectfully requested to withdraw the rejection of Claim 25, or point out where specifically in Haber the Examiner has support for such a reading of Haber **in a non-final office action** so the Applicant has a full and fair opportunity to respond.

Claim 26:

The Examiner states that Haber discloses a seal assembly having an outer perimeter attached to a “flotation means (134).” It is respectfully urged that Haber does not teach or suggest that element 134 of Haber provides flotation of a seal assembly. Element 134 of Haber is described by Haber as “spacer ring 134” (column 6, lines 6-14). The Examiner is respectfully requested to withdraw the rejection of Claim 26, or point out where specifically in Haber the Examiner has support for such a reading of Haber **in a non-final office action** so the Applicant has a full and fair opportunity to respond.

Claim 27:

Claim 27 recites, among other things, a plurality of protectors disposed proximal to said plurality of separate semicircular seal segments. The Examiner’s position is that Haber discloses a plurality of “protectors (46,98)” disposed proximal of an elastomeric seal. It is respectfully urged that this is not a correct characterization of Haber.

Haber actually teaches element 46 is a “flange” 46, and that element 98 is a “locking plate” 98. It is respectfully urged that the Examiner may not properly apply the flange 46 and the locking plate 98 in rejecting Claim 27 with respect to the recited “plurality of protectors”.

The Examiner is respectfully requested to point out what specifically in Haber the Examiner believes supports the application of the flange 46 and the locking plate 98 as being protectors as recited in Claim 26, or withdraw the rejection.

Claim 28:

Claim 28 recites, among other things, the plurality of separate semicircular seal segments are disposed such that there is a substantially centrally located aperture in said seal assembly.

The Examiner states that Haber discloses in Figures 2 and 5A layered elastomeric members disposed such that there is a substantially centrally located aperture in the seal assembly.

Haber not only fails to show an aperture in the proximal seal 122 formed of sealing elements 126, but Haber's teaching at column 6, lines 1-5 explains that the seal 122 formed of elements 126 provides an effective seal, especially at the center of the seal 122:

“... provides an effective seal when the obturator body 58 is removed from the trocar body as in Fig 4. The use of tapered distal edges 128 helps *ensure the proper sealing effectiveness at the center of proximal seal 122* where edges 128 meet.” (italics added).

It is respectfully urged that Figures 2 and 5A of Haber, as well as the above cited portion of Haber, clearly not only fail to teach the subject matter of Claim 28, but actually teach away from the subject matter of Claim 28.

Claim 30:

Claim 30 recites, among other things,

a seal assembly disposed within said housing comprising a first substantially rigid ring, a second substantially rigid ring, and a plurality of semicircular elastomeric members compressed therebetween and forming a conical shape, the elastomeric members circumscribing an aperture

in an interwoven pattern and cooperate to sufficiently seal against objects positioned within the aperture to maintain gas pressure in the abdominal cavity during endoscopic surgical procedures.

As explained above, Haber neither teaches nor suggests a plurality of semicircular elastomeric forming a conical shape, or a plurality of elastomeric seal members circumscribing an aperture in an interwoven pattern. The elements 126 of Haber don't :

1. form a conical shape, or
2. circumscribe an aperture.

Claim 34:

Claim 34 recites, among other things,

a plurality layered elastomeric members arranged circumferentially about an aperture in an alternating over and under pattern and forming a conical shape, the plurality layered elastomeric members cooperating to provide a substantially gas-tight seal against instruments positioned through the aperture.

As explained above, Haber's elements 126 :

1. are not arranged about an aperture;
2. don't form a conical shape;

Further, Haber explains that it is sealing element 136 includes conical portion 152 with an opening 158 sized to be smaller than the object (e.g. instrument or obturator) passing therethrough, to provide a good gas seal...see column 6, lines 28-41 of Haber.

The Examiner is respectfully requested to reconsider the Examiner's application of Haber in rejecting the claims, in view of Haber's express teachings with respect to the operation of sealing element 122 and sealing element 136.

The rejection of Claims 35-34 is improper for at least the reasons set forth above.

Based on the foregoing, all of the pending claims are in a condition for allowance. Applicants traverse all rejections and request reconsideration, and Applicants request an early notice of allowability.

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